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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,847	03/10/2004	Anthony Levas	728-241	6373
66668 7590 07/10/2009 THE FARRELL LAW FIRM, P.C. - IBM 290 Broadhollow Road Suite 210E Melville, NY 11747				
EXAMINER				
JACKSON, JAKIEDA R				
ART UNIT		PAPER NUMBER		
2626				
MAIL DATE		DELIVERY MODE		
07/10/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/797,847

Applicant(s)

LEVAS ET AL.

Examiner

JAKIEDA R. JACKSON

Art Unit

2626

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1.5-9, 13-18 and 22-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1.5-9, 13-18 and 22-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. In response to the Office Action mailed February 18, 2009, applicant submitted an amendment filed on April 6, 2009, in which the applicant traversed and requested reconsideration.

Response to Arguments

2. Applicant argues that the prior art cited does not teach the presenting each class from a different position in space relative to the user. Applicant provides an example explaining the classes are audibly presented from different locations (e.g. from the front of the user, from the left of the user, from behind the user, from above the user, etc.). Applicant further explains that the user is within a 3-dimensional direction. The PTO must give claim words their broadest reasonable meaning in their ordinary usage, as understood by one of ordinary skill in the art. **In re Morris**, 127 F.3d 1048, 44 USPQ2d 1023 (Fed. Cir. 1997). That is, the claim has been amended to merely recite that the tags are presented from based on where the user is. Kovesdi discloses inputting information which may be bound to an object identifier (paragraph 0046). Further, Kovesdi discloses that the *location of user* and the text input mechanism narrows down the object identifier search space (paragraph 0064). Willins teaches that that a directional sound is created by the terminal CPU by first determine the relative angle and distance between the user and the object of interest (paragraph 0035). As the *user's relative positioning changes* with respect to the object, a new clip is played based on the new object (paragraph 0036). Furthermore, Willins teach that the server can

determine the relative angle and distance of the user with respect to the objects of interest. The server, knowing the identity and location of the objects, the user's geographical position and head orientation selects the terminal in which the audio should be played from. That is, Wilins teaches how (from which direction) the audio is output to a user. Therefore, Applicant's arguments have been considered, but are not persuasive, and therefore, claim 1, 5-9, 13-18 and 22-26 remain rejected as being unpatentable over Kovesdi in view of Willins.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1, 5-9, 13-18 and 22-26** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kovesdi et al. (PGPUB 2003/0155413), hereinafter referenced as Kovesdi in view of Willins et al. (PGPUB 2005/0108646), hereinafter referenced as Willins

Regarding **claims 1, 9 and 18**, Kovesdi discloses a method, system and computer program, hereinafter referenced as a method for presenting and browsing information, comprising the steps of:

classifying the information into a plurality of classes and sub-classes, each class having at least one sub-class (winter/summer; column 4, paragraph 0039 and column 5, paragraph 0054);

directional tagging said classified information with directional tags for spatial presentation (tags; column 4, paragraph 0039 and paragraphs 0044-0045 with column 6, paragraph 0060-0062);

interactively controlling the presentation of the sub-classes (column 8, paragraph 0075 and column 13, paragraph 0095-0096).

receiving an input command from the user, said input command containing information identifying a position in space from which a class was presented (objects in the proximity/location determination; column 7, paragraph 0064 with paragraphs 0046 and 0089); and

presenting sub-class information of the class said input command identified (column 8, paragraph 0075 and column 13, paragraph 0095-0096), but does not specifically teach consulting the directional tags to audibly present each class from a different position in space based on the directional tags.

Willins discloses a method comprising consulting the directional tags to audibly present each class from a different position in space relative to a user (user's relative positioning) and based on the directional tags (directional device processing audio clips into spatial representations; paragraphs 0030-0036), in order to maintain a robust user experiences and to augment the user experience.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kovesdi's method wherein it is described above, to animate the experience of the user relative to an item,/exhibit, enable the user to hear about an item or exhibit based on their location and field of view, personalize the audio presentation based on specific interest of individual and provide intuitive directional cues to bring attention to items of interest and to guide the user to a desired location (paragraphs 0005-0006).

Regarding **claims 5, 13 and 22**, Kovesdi discloses a method wherein the input command is received through a spoken command from the user (speech recognizer; column 6, paragraph 0059 with column 7, paragraph 0064).

Regarding **claims 6, 14 and 23**, Kovesdi discloses a method wherein the input command is received through an input device having means for determining a direction to which a user points (objects in the proximity/location determination; column 7, paragraph 0064 with GPS; column 4, paragraphs 0040-0041 and column 13, paragraph 0098).

Regarding **claims 7, 15 and 24**, Kovesdi discloses a method wherein the input command is received through an electrical or mechanical input device (inputting information; columns 4-5, paragraph 0046 and column 12, paragraph 0089).

Regarding **claims 8, 16 and 25**, Kovesdi discloses a method wherein the interactively controlling step includes the steps of:

receiving an input command from the user, said input command containing information identifying a class or sub-class (column 39, paragraphs 0039-;0040) and

presenting further information of the class or sub-class said input command identified (objects in the proximity/location determination; column 7, paragraph 0064).

Regarding **claim 26**, Kavesdi discloses a method wherein the input command is received through at least one of a speech recognition system, an input device having means for determining a direction to which a user points and a standard computer input device (speech recognizer; column 6, paragraph 0059 with column 7, paragraph 0064).

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAKIEDA R. JACKSON whose telephone number is (571)272-7619. The examiner can normally be reached on Monday-Friday from 5:30am-2:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Hudspeth can be reached on 571-272-7843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jakieda R Jackson/
Examiner, Art Unit 2626
July 6, 2009
/David R Hudspeth/
Supervisory Patent Examiner, Art Unit 2626